

Mail Stop Interference  
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Paper 1

Filed: 15 December 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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KJELL OLMARKER and BJÖRN RYDEVIK  
Junior Party  
(Patents 6,649,589 and 7,708,995),

v.

JUNMING LE, JAN VILCEK, PETER DADDONA,  
JOHN GHRAYEB, DAVID KNIGHT,  
and SCOTT SIEGEL,  
Senior Party  
(Application Nos. 10/227,488 and 10/665,971).

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Patent Interference No. 105,842  
(Technology Center 1600)

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**DECLARATION - Bd.R. 203(b)<sup>1</sup>**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s)

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 and claims designated as corresponding or as not corresponding to the count(s) appear  
2 in Parts E and F of this DECLARATION.

3 **Part B. Judge managing the interference**

4 Administrative Patent Judge Sally Gardner Lane has been designated to manage  
5 the interference. Bd. R. 104(a).

6 **Part C. Standing order**

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
8 DECLARATION. The STANDING ORDER applies to this interference.

9 **Part D. Initial conference call**

10 A telephone conference call to discuss the interference is set for **2:30p.m. on 1**  
11 **March 2012** (the Board will initiate the call).

12 No later than **four business days** prior to the conference call, each party shall  
13 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as Form 2  
16 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
17 the conference call and to agree on dates for taking action. A typical motion period  
18 lasts approximately eight (8) months. Counsel should be prepared to justify any request  
19 for a shorter or longer period.

20

**Part E. Identification and order of the parties**

Junior Party

Named Inventors: Kjell OLMARKER  
Möln dal SWEDEN  
  
Bjorn RYDEVIK  
Göteborg SWEDEN

Involved Patents: 6,649,589, issued 18 November 2003, from application  
09/743,852, filed 23 September 1999 under 35 U.S.C. § 371  
from international application PCT/SE99/01671

USE OF CERTAIN DRUGS FOR TREATING NERVE ROOT  
INJURY

7,708,995, issued 04 May 2010, from application  
11/521,093, filed 14 September 2006

USE OF TNF-ALPHA INHIBITORS FOR TREATING A  
NERVE DISORDER MEDIATED BY NUCLEUS PULPOSUS

Assignee: Sciaticon AB

Senior Party

Named inventors: JUNMING LE  
Jackson Heights, NY

JAN VILCECK  
New York, NY

PETER DADDONA  
Menlo Park, CA

JOHN GHAYEB  
Downington, PA

DAVID KNIGHT  
Berwyn, PA

1 SCOTT SIEGEL  
2 Westborough, MA  
3

4 Involved Applications: 10/227,488, filed 23 August 2002  
5

6 METHODS OF TREATING INFLAMMATION ASSOCIATED  
7 WITH NEURODEGENERATIVE DISEASES WITH ANTI-  
8 TNF $\alpha$  ANTIBODIES  
9

10 10/665,971, filed 19 September 2003.

11 METHODS OF TREATING NEURODEGENERATIVE  
12 INFLAMMATION WITH ANTI-TNF ALPHA ANTIBODIES  
13

14  
15 Assignee: Janssen Biotech, Inc.  
16

17 The senior party is assigned exhibit numbers 1001-1999. The junior party is  
18 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party  
19 is responsible for initiating settlement discussions. SO ¶ 126.1.

20 **Part F. Count and claims of the parties**

21 Count 1

22 Claim 1 of Olmarker 6,649,589

23 or

24 Claim 1 of Olmarker 7,708,885

25 or

26 Claim 4 of Le 10/227,488

27 or

28 Claim 1 of Le application 10/665,971  
29

1  
2 The claims of the parties are:

3 Olmarker ('589): 1-39

4  
5 Olmarker ('995): 1-13

6  
7 Le ('488): 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

8  
9 Le ('971): 1-7, 18-20, and 22-37

10  
11 The claims of the parties which correspond to Count 1 are:

12 Olmarker ('589): 1-39

13  
14 Olmarker ('995): 1-13

15  
16 Le ('488): 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

17  
18 Le ('971): 1-7, 18-20, and 22-37

19  
20 The claims of the parties which do not correspond to Count 1, and therefore are not  
21 involved in the interference, are:

22 Olmarker ('589): None

23  
24 Olmarker ('995): None

25  
26 Le ('488): None

27  
28 Le ('971): None

1 The parties are accorded the following benefit for Count 1:

2 Olmarker ('995)<sup>2</sup>: 10/225,237, filed 22 August 2002, which issued as US  
3 Patent 7,115,557;

4  
5 09/826,893, filed 16 April 2001, abandoned;

6  
7 09/743,852, which was filed under 35 U.S.C. § 371  
8 from international application PCT/SE99/01671, filed  
9 23 September 1999;

10  
11 Swedish application 9803710-4, filed 29 October  
12 1998; and

13  
14 Swedish application 9803276-6, filed 25 September  
15 1998.

16  
17  
18 Le: 09/133,119<sup>3</sup>, filed 12 August 1998, issued as US  
19 Patent 6,277,969;

20  
21 08/570,674, filed 11 December 1995, abandoned;

22  
23 08/324,799, filed 18 October 1994, issued as US  
24 Patent 5,698,195;

25  
26 08/192,102, filed 04 February 1994, issued as US  
27 Patent 5,656,272;

28  
29 08/192,861, filed 04 February 1994, issued as US  
30 Patent 5,919,452;  
31

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<sup>2</sup> The involved Olmarker US Patent 6,649,589, is accorded the same earliest priority date of 23 September 1999, which is the filing date under 35 U.S.C. § 371 of international application PCT/SE99/01671.

<sup>3</sup> The involved Le application no. 10/227,488 is a continuation of application no. 09/766,535, filed 18 January 2001, which issued as US Patent 6,991,791 and is a divisional of application no. 09/133,119. The involved Le application no. 10/665,971 is a divisional of application no. 09/756,398, which issued as US patent 6,835,823 and is a divisional of application no. 09/133,119.

1 08/192,093, filed 04 February 1994, issued as US  
2 Patent 6,284,471;  
3  
4 08/010,406, filed 29 January 1993, abandoned;  
5  
6 08/013,413, filed 02 February 1993, abandoned;  
7  
8 07/943,852, filed 11 September 1992, abandoned;  
9  
10 07/853,606, filed 18 March 1992, abandoned;  
11 07/670,827, filed 18 March 1991, now abandoned.  
12  
13  
14

**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see

SO ¶ 106.1.1:

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Patent Interference No. 105,842  
(Technology Center 1600)**

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**Part H. Order form for requesting file copies**

- 1 When requesting copies of files, use of SO Form 4 will greatly expedite
- 2 processing of the request. Please attach a copy of Parts E and F of this
- 3 DECLARATION with a hand-drawn circle around the patents and applications for which
- 4 a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 6,649,589  
Copy U.S. Patent 7,708,995  
Copy of claims of 10/655,971  
Copy of claims of 10/227,488

cc (via overnight delivery):

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